

**Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201**

Department of the Treasury

Release Number: 201503023
Release Date: 1/16/2015
Date: October 23, 2014

Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

LEGEND:

x = dollar amount

M = organizations

N =

UIL:

4942.03-07

Dear _____ :

Why you are receiving this letter

This is our response to your December 26, 2013 letter requesting approval of a set-aside under Internal Revenue Code section 4942(g)(2). You have been recognized as tax-exempt under section 501(c)(3) of the Code and have been determined to be a private foundation under section 509(a).

Our determination

Based on the information furnished, your set-aside program is approved under Internal Revenue Code section 4942(g)(2). As required under section 4942(g)(2), the set aside amount must be paid within the 60-month period after the date of the first set-aside.

Description of set-aside request

M, a 501(c)(3) entity, will own and operate a facility that will be constructed by N, your wholly-owned, disregarded limited liability company. The facility will be used for educational and cultural purposes for three schools currently operating in separate locations. It will be open to the community and serve as a hub for community activities during and after school, and in the evening and weekend hours.

M will retain ownership of said facility once construction is complete through a gift of 100% of its membership interest in N. You will finance the initial construction phase of this project through a set-aside amount of x dollars.

You provided specific information that describes the project and estimated amounts required to complete the project. You also estimate that the gift will be made in 2015. You have provided a representation that the amount set aside will actually be paid within 60 months after the date of the first set-aside. You also provided information that shows that you need adequate time to not only construct the facility, but also to raise enough funds needed to pay for the project.

Basis for our determination

Internal Revenue Code section 4942(g)(2)(A) states that an amount set aside for a specific project, which includes one or more purposes described in section 170(c)(2)(B), may be treated as a qualifying distribution if it meets the requirements of section 4942(g)(2)(B).

Section 4942(g)(2)(B) of the Code states that an amount set aside for a specific project will meet the requirements of this subparagraph if, at the time of the set-aside, the foundation establishes that the amount will be paid within five years and either clause (i) or (ii) are satisfied.

Section 4942(g)(2)(B)(i) of the Code is satisfied if, at the time of the set-aside, the private foundation establishes that the project can better be accomplished using the set-aside than by making an immediate payment.

Section 53.4942(a)-3(b)(1) of the Foundations and Similar Excise Taxes Regulations provides that a private foundation may establish a project as better accomplished by a set-aside than by immediate payment if the set-aside satisfies the suitability test described in section 53.4942(a)-3(b)(2).

Section 53.4942(a)-3(b)(2) of the Foundations and Similar Excise Taxes Regulations provides that specific projects better accomplished using a set-aside include, but are not limited to, projects where relatively long-term expenditures must be made requiring more than one year's income to assure their continuity.

In Revenue Ruling 74-450, 1974-2 C.B. 388, an operating foundation converted a portion of newly acquired land into a public park under a four-year construction contract. The construction contract payments were to be made mainly during the final two years. This constituted a "specific project." The foundation's set-aside of all its excess earnings for four years was treated as a qualifying distribution under Internal Revenue Code section 4942(g)(2).

What you must do

Your approved set-aside(s) will be documented on your records as pledges or obligations to be paid by the date specified. The amounts set aside will be taken into account to determine your minimum investment return under Internal Revenue Code section 4942(e)(1)(A), and the income attributable to your set aside(s) will also be taken into account in computing your adjusted net income under section 4942(f) of the Code.

Additional information

This determination is directed only to the organization that requested it. Internal Revenue Code section 6110(k)(3) provides that it may not be used or cited as a precedent.

Please keep a copy of this letter in your records. We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person listed in the heading of this letter.

Sincerely,

Director, Exempt Organizations

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